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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,721	01/25/2002	Vladimir Pelekhaty	346	2154

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EXAMINER

PRITCHETT, JOSHUA L

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,721

Applicant(s)

PELEKHATY, VLADIMIR

Examiner

Joshua L Pritchett

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 12 and 14-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 12 and 14-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

This action is in response to Amendment A filed June 26, 2003. Claim 13 has been canceled, claims 11 and 15-16 have been amended and claims 18-24 have been added as requested by the applicant.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 11-12 and 14-24 rejected under 35 U.S.C. 102(b) as being anticipated by Alexander.

Regarding claim 11, Alexander discloses an optical communication device comprising an optical communication path (col. 6 lines 18-19) and a plurality of optical filtering elements (28, 82) coupled to the optical communication path (Fig. 1, col. 3 lines 22-23), each of the plurality of filtering elements having a single optical interference filter with two passbands (col. 5 lines 17-32 (28); col. 7 lines 64-65 (82)), a first passband being configured to add/drop a plurality of optical signals, each of the optical signals being at respective one of a plurality of wavelengths (col. 7 lines 57-62).

Regarding claim 12, Alexander discloses the optical communication path being a continuous path (Fig. 1). Fig. 1 shows the optical path from the entry side of the system to the exit side of the system has a continuous path.

Regarding claim 14, Alexander discloses an optical communication device comprising an optical communication path (col. 6 lines 18-19), a plurality of optical filtering elements (28, 70 and 90), each of the plurality of filtering elements being configured to add/drop a plurality of optical signals (col. 5 lines 17-18) each of which being respective one of a plurality of wavelengths (col. 5 lines 26-32) and a service channel (col. 3 line 64-66). The use of two different optical transmitters inherently means the one transmitter can produce the claimed plurality of wavelengths and the other can produce the service channel. Alexander further discloses the service channel having a different wavelength than the plurality of wavelengths (col. 3 lines 64-66). Alexander further discloses an optical interference filter configured to select a grouping of the plurality of wavelengths (col. 7 lines 64-65). Because no piece of equipment is exactly perfect in selecting a desired wavelength, any selected wavelength will inherently have some grouping of closely related wavelengths.

Regarding claim 15, Alexander discloses the plurality of wavelengths in a range about 1550 nm. (col. 3 lines 64-66).

Regarding claim 16, Alexander discloses the service channel having a wavelength of 1310 nm. (col. 3 lines 64-66).

Regarding claim 17, Alexander discloses the service channel having a wavelength in a range between and including 1625-1650nm. (col. 7 lines 64-65).

Regarding claim 18, Alexander discloses wherein each of the plurality of optical signals corresponds to an optical payload channel, the optical payload channels being separated by a channel spacing (Table 1). The phrase “optical payload” can be interpreted by one of ordinary skill in the art to mean a light beam; therefore any light that passes through the communication device corresponds to an optical payload. Table 1 shows that the channels transmitted through the Alexander communication device none of the 16 channels have the same wavelength and are therefore separated by a channel spacing.

Regarding claim 19, Alexander discloses the plurality of optical payload channels comprised of six optical payload channels (Table 1). Table 1 shows that the Alexander device has 16 channels and therefore inherently has 6 channels.

Regarding claim 20, Alexander discloses each of the six optical payload channels has a center wavelength within the range of 1530 to 1570 nm (Table 1). Table 1 shows 16 channels with a center wavelength within the claimed range and therefore inherently shows 6 channels within the claimed range.

Regarding claim 21, Alexander discloses the service channel has a center wavelength within a range of 1625 to 1650 nm (col. 7 lines 64-65).

Regarding claim 22, Alexander discloses that the service channel has a wavelength of 1310 nm (col. 3 lines 64-65).

Regarding claims 23 and 24, claims 23 and 24 are rejected for the same reasons as the rejections for claims 18 and 19 stated above.

Response to Arguments

Applicant's arguments, see Amendment A, filed June 26, 2003, with respect to 35 U.S.C. 112 rejections have been fully considered and are persuasive. The 112 rejections of claims 15-17 have been withdrawn.

Applicant's arguments filed June 26, 2003 have been fully considered but they are not persuasive.

On pages 11-13 of Amendment A, applicant argues that Alexander does not teach a single filter to pass a plurality of wavelengths and asserts that the examiner misunderstood the term "grouping." Alexander does teach a single filter (82) to pass a plurality of wavelengths (col. 7 lines 64-65). Alexander states that the filter reflects only the wavelength 1625 nm, therefore the filter will pass all other wavelengths incident the filter. The term "grouping" as understood based on the claim language merely means a collection of the wavelengths. As stated in the Previous Office Action (Paper No. 8) on page 5 a filter will inherently select a group of wavelengths due to minor imperfections in the filter itself.

Applicant's arguments with respect to claims 11-12 and 14 as rejected by Mizrahi have been considered but are moot in view of the new ground(s) of rejection. The rejection of claims 11-12 and 14 based on Mizrahi has been withdrawn for the purpose of expediting prosecution by limiting the discussion to a rejection instead of multiple rejections.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

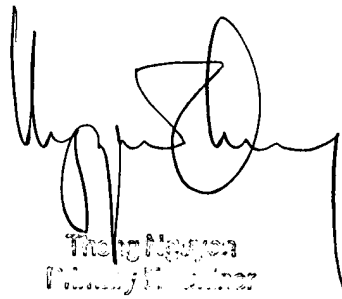
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L Pritchett whose telephone number is 703-305-7917. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on 703-305-0024. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

JLP

July 29, 2003



Handwritten signature, likely of a patent attorney, with the printed name "Theodore J. Lippman" and "Patent Attorney" below it.